

Message Text

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ACTION EUR-12

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E.O. 11652: N/A

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SUBJECT: OECD GOVERNMENT PROCUREMENT CODE AND THE EC

REF: STATE 180111 (NOTAL)

1. WE HAVE BEEN UNABLE TO DISCUSS THE ISSUE OF THE AGENDA PROPOSALS FOR THE GOVERNMENT PROCUREMENT WORKING PARTY WITH BRAUN AND GUNDELACH, WHO, LIKE MOST COMMISSION OFFICIALS, ARE ON VACATION. WE HAVE, HOWEVER, DISCUSSED THE MATTER WITH PHAN VAN PHI AND WITH LESLIE FIELDING (BOTH DIRECTORS WITHIN THE DIRECTORATE GENERAL FOR EXTERNAL RELATIONS).

2. PHAN VAN PHI, WHILE PROFESSING TO BE ILL-INFORMED ON THE DETAILS, DID FEEL THAT THE EC PROPOSALS WERE SUBJECT TO SOME MISINTERPRETATION. HE ACKNOWLEDGED THAT THERE WERE LIMITATIONS ON THE EC IN ITS PARTICIPATION IN THE OECD WORKING PARTY, AND THAT UNTIL THE INTERNAL EC GOVERNMENT PROCUREMENT DIRECTIVE IS COMPLETED THE COMMUNITY IS UNLIKELY TO TAKE A FINAL STAND ON CERTAIN BASIC ISSUES IN THE OECD. HOWEVER, HE FELT IT WOULD BE DESIRABLE FOR US

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PARTICIPANTS IN THE WORK ON THE CODE TO VISIT BRUSSELS

PRIOR TO THE SEPTEMBER 15 WORKING PARTY MEETING SO THAT,
TO THE DEGREE POSSIBLE, DIFFERENCES COULD BE NARROWED
PRIOR TO THE MEETING.

3. FIELDING FOR HIS PART TOOK VERY CAREFUL NOTES ON
OUR PRESENTATION AND SAID HE WOULD TRANSMIT A MEMORANDUM
ON THE SUBJECT TO HIS CONCERNED COLLEAGUES--INCLUDING
THOSE CURRENTLY ON VACATION.

4. COMMENT: WE THINK THAT PHAN VAN PHI'S SUGGESTION
OF A BILATERAL DISCUSSION PRIOR TO THE OECD MEETING IS
WORTH CAREFUL CONSIDERATION. THERE MAY BE A NUMBER OF
POINTS WHERE FAILURE OF COMMUNICATION HAS CREATED AP-
PARENT PROBLEMS. HOWEVER, WE DO NOT BELIEVE THAT A
MAJOR SHIFT IN THE EC PROPOSALS IS POSSIBLE BEFORE
SEPTEMBER 15. THESE PROPOSALS WERE CAREFULLY CLEARED WITH
MEMBER STATES PRIOR TO THE SUMMER HOLIDAYS AND THERE IS
LITTLE LIKELIHOOD OF RECONSIDERATION PRIOR TO SEPTEMBER 15.

5. THERE MAY, AFTER THE SEPTEMBER 15 MEETING, BE REASON
FOR FURTHER BILATERAL DISCUSSIONS BETWEEN THE COMMUNITY
AND THE US. IT IS OBVIOUS THAT THE CODE WILL NOT BE
CONCLUDED UNTIL AND UNLESS THESE TWO MAJOR POTENTIAL
PARTICIPANTS REACH AGREEMENT. WE DO NOT MEAN TO SUGGEST
BY THIS, HOWEVER, THAT FINAL EC POSITIONS ON IMPORTANT
ISSUES SUCH AS SECTORS TO BE EXCLUDED FROM THE CODE
WILL BE ADOPTED IN THE NEAR FUTURE. AS FERNAND BRAUN
TOLD US IN A RECENT DISCUSSION, THE COMMUNITY WILL NOT
HAVE A POSITION FOR THE OECD ON THESE POINTS UNTIL IT
SETTLES THEM FOR THE PURPOSES OF ITS INTERNAL GOVERN-
MENT PROCUREMENT SYSTEM. FURTHERMORE, WHEN THESE
ISSUES ARE SETTLED INTERNALLY, THE PATTERN ESTABLISHED
WILL CONDITION THE COMMUNITY POSITION REGARDING THE OECD
CODE. NEVERTHELESS, EVEN IN THIS REGARD WE SEE THE
VALUE OF INTENSIFIED BILATERAL DISCUSSIONS, WITH THE
COMMISSION, AND POSSIBLY WITH MEMBER STATES, IN AN
EFFORT TO HAVE SOME EFFECT ON FINAL COMMUNITY DECISIONS.
WE THINK THAT THE COMMISSION'S RECEPTIVITY TO SUCH
AN APPROACH WILL BE ALL THE GREATER BECAUSE OF ITS
FEAR THAT FAILURE IN THE OECD EXERCISE WILL LEAD TO
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TRANSFER OF THE SUBJECT TO THE GATT; AND COMMISSION
OFFICIALS ARE MOST APPREHENSIVE OF THE DANGERS OF BRINGING
LDC PARTICIPANTS INTO WORK ON THE CODE. END COMMENTMORRIS

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